Before the

Federal Communications Commission

Washington, D.C. 20554

In the matter of	)	
	)	
2002 Biennial Regulatory Review –	)	
Review of the Commission's Broadcast	)	MB Docket No. 02-277
Ownership Rules and Other Rules	)	
Adopted Pursuant to Section 202 of the	)	
Telecommunications Act of 1996	)	
	)	
Cross-Ownership of Broadcast Stations	)	MM Docket No. 01-235
and Newspapers	)	
	)	
Rules and Policies Concerning	)	MM Docket No. 01-317
Multiple Ownership of Radio Broadcast	)	
Stations in Local Markets	)	
	)	
Definition of Radio Markets		MM Docket No. 00-244

REPLY COMMENTS

On September 12, 2002, the Commission adopted a Notice of Proposed Rulemaking (*"Notice"*)[1], which began its 2002 biennial review of the broadcast ownership rules. Communications Science and Technologies, Inc. ("CS&T") [2] hereby submits its Reply Comments in response to the Commission's Notice.

1. Introduction

A reading of the Comments submitted in this proceeding clearly reflects the understanding by a

[1] *2002 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, Cross-Ownership of Broadcast Stations and Newspapers, Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets, Definition of Radio Markets* ("*2002 Biennial Regulatory Review*"), 17 FCC Rcd 18503 (2002) (*"Notice"*).

[2] Communications Science and Technologies, Inc. ("CS&T") is a New York corporation formed by, among others, Television News Syndication Corporation ("TNS") and the Litigation Recovery Trust ("LRT"), also of New York City. LRT is a long time participant in proceedings before the Commission and the author of several key industry structuring proposals, including the establishment of the Digital Conversion Fund referenced below. CS&T has been formed to develop and market various new technologies to be applied in the mass electronic communications industries.

majority of the commenters of the momentous changes presently impacting the television, cable and telephone industries in the United States. It is obvious that within the next two to three years, all over the air television, cable television, data communications (including voice and video telephone) delivered via wireline and satellite carriers will enter the digital age. All of these services will be transmitted via a digital medium allowing, among other things, the wide scale utilization of a new generation of high definition video receivers.

2. Realities of the Marketplace

In reviewing the voluminous filings in this proceeding, it is clear that little attention has been paid to the significant capital shortfall, which is delaying the transformation of our country's basic broadcasting system to the new digital standard. Hundreds of television stations lack the ready access to financing required to adapt to digital transmission.[3] Likewise, a large percentage of cable systems are not able to fund the conversion of their existing analogue plants to accommodate both the bandwidth required by local digital TV stations, as well as the literally hundreds of local, regional and national cable TV programming services,[4] which are entering the market.

In addition to financing shortfalls faced by broadcasting and cable industries, hundreds of local telephone companies serving small and mid-sized markets face similar problems. These telcos should be upgrading their facilities to the digital standard, but lack the financial resources necessary to undertake this needed transformation.

Finally, there are the low power TV stations. A large majority of these outlets have apparently been disregarded as policies have been developed to facilitate the changeover to the digital standard.

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[3] These stations have been forced to seek extensions of the Commission's construction deadlines for completing the upgrade to digital transmission. In fact, the Commission notes that about 870 TV stations, representing 70% of the country's 1.250 TV outlets, have revenues of $12 million or less. See *Notice*,p.57.

[4] The Commission reports that 1180 of the total 1311 cable and related multichannel delivery systems in the US gross less than $10 million annually. According to the Commission's ninth report on video competition, cable is recorded as having 68.8 million customers as of June 2002. The report also states that cable operators have seen significant subscriber losses and 2002 may be the first year in which the industry sees a net loss of customers. Direct satellite TV subscribers numbered 18 million, representing 20.3 percent of all multichannel subs. FCC Ninth Report on Video Competition ,December 31, 2002.

The country should be moving forward with all deliberate speed converting to the digital standard. However, a large part of the television, cable and telephone industries are presently foreclosed from entering the digital age.

Digital conversion is underway in the country's major markets as cable companies double, triple and quadruple their available channel base.. Also, the direct broadcast satellite industry is fully digitized, enabling the two operating companies to provide viewers access to 300, 400 and more channels.

This positive impact of digital conversion has brought about marked changes on the programming supply side of the industry. More and more channels offered via cable and direct to home are causing a fundamental reordering in the program production industry, as cable and satellite companies compete with each other, offering increased program channels – local, regional, national and international. This increased competition and diversity on the programming side has increased audience segmentation as viewers have left behind established habits and customs, choosing instead to watch channels targeted at unique demographics.

The fact remains, however, that the significant funding shortfall must be addressed if the country's citizens are to realize the tremendous benefits which digital transmission holds for all electronic communications media.

3. New Approaches to Facilitate Digital Conversion –

Proposal for Joint Industry Advanced Technologies task Force

A key focus of CS&T is the development of various means to speed the introduction of new communications technologies. As reflected in the CS&T Comments, there are a number of obstacles to progress. At the top of the list are outmoded regulations adopted to achieve goals, which are no longer relevant. In a 500 channel world, for example, there is no need to retain regulations (or adopt new rules) designed to limit the powers of the once dominant broadcast

networks. The days of the three network funnel are long gone, and so likewise should be all rules drafted to limit the possible effects of such domination.

It is critical that Commission rules, which hinder and slow digital conversion, be amended or eliminated. In fact, regulatory policies should established so as to encourage the introduction of digital technologies.

For example, federal policies should be adopted with a view to encourage the upgrading of telecommunications infrastructure. Here also, the assumption need not be that the structures of the past – one wireline telco and one cable company per market- will continue. Rather, rules should be adopted to create structures to assist the introduction of the latest technological advances.

To facilitate such a process, the Commission should consider the establishment of a joint industry advanced technologies task force to advise on the creation of new regulatory initiatives. The objective of the task force should be to propose rule changes, which will aid the introduction of new technologies, while avoiding complications caused by the limitations imposed by antiquated rules.

A good example would be the adoption of regulatory policies that will encourage the replacement of existing cable and telco networks. Throughout the country, cities and towns are served by telecom distribution systems that utilize copper and coaxial plants to deliver analogue signals. A joint industry task force will be able to chart a course that will speed the replacement of outmoded cable plants and permit the construction of new delivery systems. In this case, regulatory policy should, in the interest of efficiency, encourage the use of common plants, thereby avoiding costly legal delays and challenges, such as those disputes over pole attachment access experienced in the early days of cable television. Indeed, the problems caused by lack of workable pole attachment policies have been cited as a key reason which led to the long delayed introduction of cable tv throughout the country.

In the final analysis, what is needed is a set of federal policies, which can be quickly put in place to facilitate the construction and installation of new technologies. The Commission, guided by industry, should help set the course of this development, using its rulemaking authority to achieve the national goals of upgrading the nation’s electronic communications systems.

The future will provide citizens access to multiple voice and data systems and literally hundreds

of channels of video and audio programming. In such a world, competition within the marketplace should be the governing force, replacing artificial barriers set by government policy.

The primary goal must be the early introduction and installation of digital technologies brought about with a minimum of regulations. The proposed joint industry task force can be instrumental in speeding full realization of digital conversion.

4. The Need for Policies to Permit Private Sector Funding of Digital Conversion – Proposal for Digital Conversion Fund

In its Comments, CS&T outlined a novel approach to provide a means to produce private sector support to help finance the digital conversion of small market, minority owned and public television stations and cable systems.

The underlying thesis of CS&T's Comments and this Reply is that with the conversion of the country's fundamental electronic communications outlets to the digital standard, an unparalleled change will occur. Through the upgrading of the nation's basic electronic media, it will at long last be possible for viewers to access what will be a practically unlimited supply of programming, meeting all basic needs and interests.

CS&T believes that this transformation can best be achieved with limited and highly restricted government regulation. Through digital transmission, it will be possible to replace the system providing limited numbers of over the-air broadcast signals and analogue cable systems with as few as 12, 24 or 36 channels. In their place, it will be possible to establish a new system, providing viewers with literally hundreds of networks and local and regional program sources, all seeking to deliver their programming to attract target audiences.

As it outlined the CS&T Comments, this wholesale digital conversion of the country's basic electronic media can only be undertaken where sufficient capital exists to fund the technical upgrade. This is especially true in the case of local TV stations, cable systems and telephone companies, especially in the small and mid-sized markets, which lack the capital necessary to complete their conversion to digital. To answer this need, CS&T has offered an innovative

approach to encourage private sector support to assist with this critical conversion of facilities. This proposed approach is based on the establishment of a private Digital Conversion Fund.

The creation of the Digital Conversion Fund was originally placed before the Commission by Litigation Recovery Trust (LRT) in the context of several proceedings involving Comsat Corporation,[5] the government sponsored corporation founded in 1962 to lead the nation's of the world into the satellite age. At present, Comsat is being liquidated. LRT has proposed that all proceeds realized from the sale of Comsat assets be turned over to a Digital Conversion Fund to provide loans to assist under-funded tv stations and cable systems.

Under the LRT proposal, these funds provided through the Digital Conversion Fund would be used to finance through loans or grants the digital conversion of small market, minority owned and public television stations and cable systems. LRT has argued that the Comsat assets were purchased through revenues generated by a monopoly established by Congress and should therefore be regarded as property of the US Government. LRT also has maintained that Comsat should be sanctioned for certain of its past actions, including serious legal violations.

Building upon the basic LRT proposal, CS&T has chosen to expand the LRT Digital Conversion Fund in response to the Commission's request in this proceeding for policy proposals addressing innovation. The plan envisioned by CS&T can be summarized as follows:

> CST proposes that all licensees and cable systems which expand their operations as a direct result of the relaxation of the Commission's ownership rules be required, as a condition of their new license or permit grant, to loan a small percentage (2-4%, based on a graduated scale) of the dollar value of all expanded broadcast and/or cable facilities (resulting from purchase or construction) to the Digital Conversion Fund. The monies provided by the broadcast and cable organizations would be loaned by the Fund to qualifying small market, minority owned and public television broadcasters, cable systems and telephone systems. The loans would be for a term of 3 to 6 years, would carry interest at an accepted prevailing commercial loan rate and would be guaranteed by the US Government.

[5] See Intelsat-Comsat World Systems Proceeding, IB Docket 02-87.

Under the CS&T proposal, those licensees and cable operators, which will benefit from the proper relaxation of the ownership rules, will be expected to assist – through business loans- that segment of the industry that is not at present able to complete the digital conversion of their transmission facilities.

CS&T believes that its expanded Digital Conversion Fund proposal is an appropriate and useful methodology to bring about the early completion of the digital conversion of our nation's primary telecommunications infrastructure.

CS&T remains convinced that without such a funding source, the only likely results of the present situation will be appeals for Congressional funding in the form of grants (already advocated by PBS stations), an inordinate delay in completing the conversion of facilities or the termination of operations by licensees and systems lacking ready access to capital. None of these alternatives should be viewed as acceptable, especially in view of the projected level of deficits that are projected in the budget presently being considered by the Congress.

5. Conclusion

As stated at length in its Comments, CS&T is of the belief that the fundamental changes in the nation's television and cable industries being brought about by conversion to the digital standard should result in the wholesale elimination of the existing broadcast and cable ownership limits. In a world of hundreds of channels of information, each seeking to reach discrete segments of the audience, it should be found to be no longer necessary or advisable to maintain a system of rules designed to impose artificial structures upon the ownership of transmission facilities.

A review of the other comments in this proceeding reveals no body of opinion, which contradicts the basic CS&T position. Certainly many commenters argue for the status quo or even increased regulation to artificially regulate the market. However, no evidence is offered to support these position. Rather, these parties base their positions on a "government regulation is good, bigness is bad" philosophy. In telecommunications, the time has clearly come to move on so as to allow full freedom for market forces to work, bringing a comprehensive supply of services and, at the same time, assuring the exercise of the fundamental right of free speech and press.

Dating to the founding of our republic, the First Amendment has guaranteed free speech to all citizens. Unfortunately, since the early days of broadcasting, the precious free speech gift of the founding fathers has been circumscribed, due to the technical limitations of the radio and television media, and later cable television transmission technologies. In a country of limitless voices and ideas, citizens have for the last 75 years been served by electronic communications technologies which were by their very nature limited, requiring a full set of regulations governing access to the electronic media. This need no longer be the case.

Without question, the entry of the digital transmission age holds the immediate prospect of removing these regulatory imitations on free speech. As a result, it should become a matter of highest priority to speed the introduction of digital facilities throughout America, and remove all governmental artificial restraints on the transmission of electronic content.

The policies, which CST advocates in this proceeding, especially the establishment of the Joint Industry Advanced Technologies Task Force and the expanded Digital Conversion Fund proposal, will help to achieve this result. For this reason, CS&T respectfully requests the Commission to establish the joint industry task force outlined herein and adopt regulations necessary to facilitate the founding of the Digital Conversion Fund as proposed by LRT and CS&T.

Respectfully submitted,

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